

106TH CONGRESS  
1ST SESSION

# S. 1478

To amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 3, 1999

Mr. DASCHLE (for himself, Mr. MCCAIN, and Mr. INOUE) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. AUTHORITY OF INDIAN TRIBES TO RECEIVE**  
4 **FEDERAL FUNDS FOR FOSTER CARE AND**  
5 **ADOPTION ASSISTANCE.**

6 (a) CHILDREN PLACED IN TRIBAL CUSTODY ELIGI-  
7 BLE FOR FOSTER CARE FUNDING.—Section 472(a)(2) of  
8 the Social Security Act (42 U.S.C. 672(a)(2)) is  
9 amended—

1 (1) by striking “or (B)” and inserting “(B)”;  
 2 and

3 (2) by inserting before the semicolon the fol-  
 4 lowing: “, or (C) an Indian tribe as defined in sec-  
 5 tion 479B(b)(5), in the case of an Indian child (as  
 6 defined in section 4(4) of the Indian Child Welfare  
 7 Act of 1978 (25 U.S.C. 1903(4))) if the tribe is not  
 8 operating a program pursuant to section 479B and  
 9 (i) has an agreement with a State pursuant to sec-  
 10 tion 479B(b)(3) or (ii) submits to the Secretary a  
 11 description of the arrangements, jointly developed or  
 12 in consultation with the State, made for the pay-  
 13 ment of funds and the provision of the child welfare  
 14 services and protections required by this title”.

15 (b) PROGRAMS OPERATED BY INDIAN TRIBAL ORGA-  
 16 NIZATIONS.—Part E of title IV of the Social Security Act  
 17 (42 U.S.C. 670 et seq.) is amended by adding at the end  
 18 the following:

19 “PROGRAMS OPERATED BY INDIAN TRIBAL  
 20 ORGANIZATIONS

21 “SEC. 479B. (a) Except as provided in subsection  
 22 (b), this part shall apply to an Indian Tribe that chooses  
 23 to operate a program under this part in the same manner  
 24 as this part applies to a State.

25 “(b)(1) In the case of an Indian tribe submitting a  
 26 plan for approval under section 471, the plan shall—

1           “(A) in lieu of the requirement of section  
2           471(a)(3), identify the service area or areas and  
3           population to be served by the Indian tribe; and

4           “(B) in lieu of the requirement of section  
5           471(a)(10), provide for the approval of foster homes  
6           pursuant to tribal standards and in a manner that  
7           ensures the safety of, and accountability for, chil-  
8           dren placed in foster care.

9           “(2)(A)(i) For purposes of determining the Federal  
10          medical assistance percentage applicable to an Indian tribe  
11          under paragraphs (1) and (2) of section 474(a), the cal-  
12          culation of an Indian tribe’s per capita income shall be  
13          based upon the service population of the Indian tribe as  
14          defined in its plan.

15          “(ii) An Indian tribe may submit to the Secretary  
16          such information as the tribe considers may be relevant  
17          to making the calculation of the per capita income of the  
18          tribe, and the Secretary shall consider such information  
19          before making the calculation.

20          “(B) The Secretary shall, by regulation, determine  
21          the proportions to be paid to Indian tribes pursuant to  
22          section 474(a)(3), except that in no case shall an Indian  
23          tribe receive a lesser proportion than specified for States  
24          in that section.

1       “(C) An Indian tribe may use Federal or State funds  
2 to match payments for which the Indian tribe is eligible  
3 under section 474.

4       “(3) An Indian tribe and a State may enter into a  
5 cooperative agreement for the administration or payment  
6 of funds pursuant to this part. Any such agreement that  
7 is in effect as of the date of the enactment of this section  
8 shall remain in full force and effect subject to the right  
9 of either party to revoke or modify the agreement pursu-  
10 ant to its terms.

11       “(4) The Secretary may prescribe regulations that  
12 alter or waive any requirement under this part with re-  
13 spect to an Indian tribe or tribes if the Secretary, after  
14 consulting with the tribe or tribes—

15               “(A) determines that the strict enforcement of  
16 the requirement would not advance the best interests  
17 and the safety of children served by the Indian tribe  
18 or tribes; and

19               “(B) provides in the regulations that tribal  
20 plans include alternative provisions that would  
21 achieve the purposes of the requirement that is to be  
22 altered or waived.

23       “(5) For purposes of this section, the term ‘Indian  
24 tribe’ means any Indian tribe, band, nation, or organized  
25 group or community of Indians, including any Alaska Na-

1 tive village, that is recognized as eligible for the special  
2 programs and services provided by the United States to  
3 Indians because of their status as Indians.

4 “(6) Nothing in this section shall preclude the devel-  
5 opment and submission of a single plan under section 471  
6 that meets the requirements of this section by the partici-  
7 pating Indian tribes of an intertribal consortium.”.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this Act take effect on the date of enactment of this Act.

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